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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Newton Galileo Guillen

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EXAMINER

DAZENSKI, MARC A

ART UNIT

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2621

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,156	Applicant(s) GUILLEN ET AL.	
	Examiner MARC DAZENSKI	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 21 May 2009 has been entered.

Response to Arguments

Applicant's arguments filed 21 May 2009 have been fully considered but they are not persuasive.

On pages 7 and 8 of the remarks, Applicant argues, "Pachet clearly teaches a display technique which uses different types of visual indicators to (i.e., shaded/darkened versus unshaded/not darkened) to indicate which state a given entry is in," and that "Pachet fails to disclose or suggest each and every element of the solution defined by amended independent claims 1 and 8" because Pachet does not disclose "a common type of visual indicator." The Examiner respectfully disagrees.

The Examiner maintains that the disclosed shaded/darkened versus unshaded/not darkened indicator of Pachet is in fact a common type of visual indicator in the sense that the "type" of visual indicator is "text modification," i.e., shading and

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darkening the text is one way of modifying the text while unshading/not darkening the text is another way of modifying the text. Though they are not an *identical* visual indicator, they are in fact two indicators of the same *type*.

The Examiner maintains that these arguments also stand for the flagged/unflagged indicators disclosed by Looney.

A full rejection of the pending claims follows below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pachet (US PgPub 2002/0078029), hereinafter referred to as Pachet, in view of Looney et al (US PgPub 2005/0201254), hereinafter referred to as Looney.

Regarding **claim 1**, Pachet discloses an information sequence extraction and building apparatus e.g. for producing personalized music title sequences. In addition Pachet discloses an apparatus adapted to automatically extract and store files each corresponding to a music title and then to display a corresponding identifier, which reads on the claimed, "a method for displaying information using a digital audio player, comprising the steps of," as disclosed in paragraphs [0062], [0067], and [0069]-[0070]; the method comprising:

a category selection option, accessible by a corresponding user input (54), which allows the user to select a main musical type, upon this type of selection option being activated, the programme consists only of titles belonging to that selected type, which reads on the claimed, "reading a playlist selected by a user; enabling a display of one or more entries included in said playlist on a display device associated with said digital audio player," as disclosed in paragraph [0114] and exhibited in figures 6 and 7 (specifically the "your programs" and "track listing" options in figure 7), as well as each programme is considered as a sequence of music titles and showing in a display page of the computer program adapted for a feedback response selected titles, which reads on the claimed, "each of said one or more entries corresponding to one of a single song and a plurality of songs and having a common type of visual indicator that indicates whether said entry is in one of a first category, a second category and a third category," as disclosed at paragraphs [0093] and [0171] and exhibited in figure 7 (wherein "sequence of music titles" reads on "a plurality of songs" and "music title" reads on "single song"); and,

the program "Love songs 2" is darkened in respect to the other programs to show that it is selected, and the track "Like Someone in Love" is darkened to show it is selected in respect to the other tracks in the "track listing window," which reads on the claimed, "said entry is in said first category if said entry corresponds to said single song and said single song has been selected by the user; said entry is in said first category if said entry corresponds to said plurality of songs and all of said plurality of songs have been selected by the user; said entry is in said second category if said entry

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corresponds to said single song and said single song has not been selected by the user; said entry is in said second category if said entry corresponds to said plurality of songs and none of said plurality of songs have been selected by the user;" as exhibited in figure 7 (wherein an item that is unshaded or is not darkened is in the "second category").

Pachet fails to disclose, however, said entry is in said third category if said entry corresponds to said plurality of songs and at least one, but not all, of said plurality of songs has been selected by the user. The examiner maintains it was well known to include the missing limitations, as taught by Looney.

In a similar field of endeavor, Looney discloses a media organizer and entertainment center. Further, Looney discloses a favorite hits function that allows a user to identify individual titles from a plurality listed in a Music Play List with a colored flag, which reads on the claimed, " said entry is in said third category if said entry corresponds to said plurality of songs and at least one, but not all, of said plurality of songs has been selected by the user," as disclosed at paragraph [0126] and exhibited in figure 23 with particular emphasis on items (798).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the information sequence extraction and building apparatus e.g. for producing personalized music title sequences of Pachet to include a favorite hits function that allows a user to identify individual titles from a plurality listed in a Music Play List with a colored flag, as taught by Looney, for the purpose of visually

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communicating to a user a difference in preference between songs in a selected playlist.

Regarding **claim 2**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 1). Further, Pachet discloses the system using a "User Profile" which is effectively a table containing a set of music titles the user either likes or dislikes, which reads on the claimed, "wherein each of said plurality of songs is represented in a preference table and includes a data setting indicating that either the song is liked or the song is disliked," as disclosed at paragraph [0127].

Regarding **claim 3**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 2). Further, Pachet discloses the profile table may be thus updated continuously, typically starting from an empty state, and updated each time the user clicks on user-input (56) to indicate his or her taste, which reads on the claimed, "further comprising the step of updating the preference table each time the user indicates whether one of said plurality of songs is liked or disliked," as disclosed in paragraph [0128].

Regarding **claim 8**, Pachet discloses an information sequence extraction and building apparatus e.g. for producing personalized music title sequences. Further, Pachet discloses a personalized music sequence player (34), which reads on the claimed, "a digital audio player," as disclosed at paragraph [0080] and exhibited in figure 5; the apparatus comprising:

storage unit (32), which reads on the claimed, "a storage device," as disclosed at paragraph [0085] and exhibited in figure 5;

an input device (42) through which a user can express personal choices in response to prompts appearing on video display unit (40), which reads on the claimed, "a user input device for allowing a user to select a playlist for display; a display device;" as disclosed at paragraph [0087] and exhibited in figure 5; and,

system control unit (36), based on a microprocessor, which controls the overall operation of the personal sequence apparatus (34), and further which centralizes the operation of the storage device, user input device, and the display device, which reads on the claimed, "a controller coupled to the mass storage device, the user input device, and the display device," as disclosed at paragraphs [0083]-[0087].

Further, the examiner maintains that the remaining limitations of the claim (i.e., everything from "the controller being operative to..." forward) are the corresponding apparatus to the method of claim 1, and therefore are rejected in view of the explanation set forth in claim 1 above.

Regarding **claim 9**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 8). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 2, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 2 above.

Regarding **claim 10**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 9). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 3, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 3 above.

Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pachet, in view of Looney, further in view of Nakane et al (US Patent 5,086,345), hereinafter referred to as Nakane.

Regarding **claim 4**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 3). However, the combination fails to disclose further comprising the step of storing the updated preference table in a storage device of the digital audio player during a shutdown operation of the digital audio player. The examiner maintains it was well known in the art to include the missing limitations, as taught by Nakane.

In a similar field of endeavor, Nakane discloses a method of operation in a still video camera system for transferring track information from a playback device to the still video camera. Nakane further discloses when the power is turned off, the data of the track information table thus updated is transferred to the system controller such that the table of the controller is updated, which reads on the claimed, "urther comprising the step of storing the updated preference table in a storage device of the digital audio player during a shutdown operation of the digital audio player," as disclosed at column 13, lines 41-45.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include the data of the track information table thus updated is transferred to the system controller such that the table of the controller is updated, as taught by Nakane, for the purpose of preventing

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accidental erasure of user-specified data by saving it to the memory during a shutdown operation.

Regarding **claim 11**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 10). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 4, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 4 above.

Claims 5-6, 12-13, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pachet, in view of Looney, further in view of Conrad et al (US PgPub 2006/0212442), hereinafter referred to as Conrad.

Regarding **claim 5**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 1). However, the combination fails to disclose wherein if said one or more entries correspond to said plurality of songs, said one or more entries correspond to an artist. The examiner maintains that it was well known to include the missing limitations, as taught by Conrad.

In a similar field of endeavor, Conrad discloses methods of presenting and providing content to a user. Further, Conrad discloses playlist panel (304) visually representing to the user a playlist of songs, each song comprising a graphic element containing artist text as well as corresponding content art which may comprise, for example, a picture of an album cover, which reads on the claimed, "wherein if said one or more entries correspond to said plurality of songs, said one or more entries correspond to an artist," as disclosed at column [0046] and exhibited in figure 3d.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Pachet and Looney to include discloses playlist panel (304) visually representing to the user a playlist of songs, each song comprising a graphic element containing artist text as well as corresponding content art which may comprise, for example, a picture of an album cover, as taught by Conrad, for the purpose of conveying additional information regarding a chosen song to a user.

Regarding **claim 6**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 1). Further, the limitations of the claim are rejected in view of the explanation set forth in claim 5 above.

Regarding **claim 12**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 8). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 5, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 4 above.

Regarding **claim 13**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 8). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 6, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 4 above.

Regarding **claim 15**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 1). However, the combination fails to disclose wherein said first category, said second category and said third category are represented as different columns in said display and said visual indicator is placed in

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one of said columns for each said entry to indicate which of said categories said entry is in. The examiner maintains that it was well known to include the missing limitations, as taught by Conrad.

In a similar field of endeavor, Conrad discloses methods of presenting and providing content to a user. Further, Conrad discloses panel (700) which contains three panels, "Items you added," "Songs you liked," and "Songs you didn't like," arranged in columnar format with text identifiers specifying which panel the song is classified in, which reads on the claimed, "wherein said first category, said second category and said third category are represented as different columns in said display and said visual indicator is placed in one of said columns for each said entry to indicate which of said categories said entry is in," as exhibited in figure 7a.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Pachet and Looney to include panel (700) which contains three panels, "Items you added," "Songs you liked," and "Songs you didn't like," arranged in columnar format with text identifiers specifying which panel the song is classified in, as taught by Conrad, for the purpose of allowing a user to more easily identify the properties of a selected song.

Regarding **claim 16**, the limitations of the claim are rejected in view of the explanation set forth in claim 15 above (where "Items you added," "Songs you liked," and "Songs you didn't like," read on the claimed, "first text label," "second text label," and "third text label").

Regarding **claims 17-18**, the limitations of the claims are rejected in view of the explanation set forth in claims 15 and 16, respectively, above.

Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pachet, in view of Looney, further in view of Hartley (US PgPub 2002/0103796), hereinafter referred to as Hartley.

Regarding **claim 7**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 1). However, the combination fails to disclose further comprising the step of generating a playlist sequence using parameter data indicating whether one of said plurality of songs is liked or disliked, in response to user selection of a shuffle playmode. The examiner maintains that it was well known in the art to include the missing limitations, as taught by Hartley.

In a similar field of endeavor, Hartley discloses a method for parametrically sorting music files. Hartley further discloses providing a mixing factor by performing a calculation based upon a user-selected parameter and a random number (generated by a random number generator), performing this calculation for each file, which then sorts the files according to the sorting criteria, resulting in a playlist of files, and then the player performing a shuffle on only those files having a value for a particular user-defined parameter, which reads on the claimed, "further comprising the step of generating a playlist sequence using parameter data indicating whether one of said plurality of songs is liked or disliked, in response to user selection of a shuffle playmode," as disclosed in paragraphs [0023], and [0030]-[0031].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include providing a mixing factor by performing a calculation based upon a user-selected parameter and a random number (generated by a random number generator), performing this calculation for each file, which then sorts the files according to the sorting criteria, resulting in a playlist of files, and then the player performing a shuffle on only those files having a value for a particular user-defined parameter, as taught by Hartley, for the purpose of allowing the user to eliminate from the shuffle mode certain files not meeting set criteria.

Regarding **claim 14**, the combination of Pachet and Looney discloses everything claimed as applied above (see claim 8). Further, the examiner maintains that the claim is the corresponding apparatus to the method of claim 7, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 7 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARC DAZENSKI whose telephone number is (571)270-5577. The examiner can normally be reached on M-F, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571)272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marsha D. Banks-Harold/
Supervisory Patent Examiner, Art Unit 2621

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